

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

)	
FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. 04-CV-11136-GAO
v.)	
)	
DIRECT MARKETING CONCEPTS, INC., et)	
al.,)	
)	
Defendants.)	
)	
)	

**DEFENDANTS' OPPOSITION TO PLAINTIFF FEDERAL
TRADE COMMISSION'S MOTION FOR A STATUS CONFERENCE**

Defendants Direct Marketing Concepts, Inc., ITV Direct, Inc., Donald Barrett and Robert Maihos (“DMC Defendants”) hereby oppose the Plaintiff Federal Trade Commission’s (“FTC”) Motion for a Status Conference. As grounds for their opposition, the DMC Defendants state as follows:

1. There are no open matters in this action that require a status conference. The FTC's summary judgment motion has been fully briefed by the parties. The Court has heard oral argument on the motion and taken the matter under advisement.
2. On October 5, 2007, the FTC filed another action, styled *Federal Trade Commission v. Direct Marketing Concepts, Inc.*, Civ. No. 1:07-cv-11870-GAO. That case, which challenges certain advertising for a book, has been assigned to this Court as a related case to the present action.
3. By agreement of the parties, the DMC Defendants' response to the FTC's complaint in Civ. No. 1:07-cv-11870-GAO is due on November 15, 2007. The DMC Defendants anticipate that they will move to dismiss the action for failure to state a claim and on

the grounds that the speech challenged by the FTC is fully protected under the First Amendment to the United States Constitution. Any opposition to the motion by the FTC would be due on or before November 29, 2007, and we expect that the Court would have oral argument on the DMC Defendants' motion at some point thereafter. If there are other matters pending in this case or any of the related cases before this Court, they may be addressed at that time.

WHEREFORE, the DMC Defendants respectfully request that the FTC's motion for a status conference be denied.

Dated: October 22, 2007

Respectfully submitted,
DIRECT MARKETING CONCEPTS, INC., ITV
DIRECT, INC., and DONALD BARRETT

By their attorney(s),

/s/ Christopher Robertson
Peter S. Brooks, BBO #058980
Christopher F. Robertson, BBO #642094
Susan W. Gelwick, BBO #567115
SEYFARTH SHAW LLP
Two Seaport Lane, Suite 300
Boston, MA 02210-2028
Telephone: (617) 946-4800
Telecopier: (617) 946-4801

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on October 22, 2007.

/s/ Christopher F. Robertson